

Brownfields Study Group Meeting

January 24, 2003

Meeting Notes

I. Attendees

Sue Bangert, DNR
Loren Brumberg, DNR
Margaret Brunette, DNR
Bev Craig, City of Milwaukee
Margaret Earnest, TN & Assoc.
Darsi Foss, DNR
Nancy Frank, UW-Milwaukee
Mark Giesfeldt, DNR
Matt Haessly, City of Milwaukee
Art Harrington, Godfrey & Kahn
Maureen Hubeler, DNR
Bruce Keyes, Foley & Lardner
Dan Kolberg, DNR
Joe Leo, Dept. of Commerce
Lee Madden, Fiore Companies, Inc.

Peter McAvoy, 16th St. Comm. Health Center
Jessica Milz, DNR
Tom Mueller, TEMCO
Peter Peshek, DeWitt, Ross & Stevens
Lance Potter, DNR
Michael Prager, DNR
Joe Renville, DNR
Andrew Savagian, DNR
Kathleen Schmidt, U.S. Dept. of HUD
Jason Scott, Dept. of Commerce
Joy Stieglitz, Vandewalle & Assoc.
Mark Thimke, Foley & Lardner
Sam Tobias, Fond du Lac County
Scott Wilson, Ayres and Assoc.

II. Welcome, Introductions, Agenda Repair

[Please note: per the Study Group's request, the agenda was modified to allow for a significant discussion to take place regarding the FY 2002-03 budget shortfall, Governor Doyle's proposed deficit reduction bill for FY 02-03, and future plans for the 2003-2005 biennium.]

III. FY 2002-03, Governor's Deficit Reduction Bill, FY 2003-05

Darsi Foss, Lance Potter and others gave summaries of the Governor Doyle's budget repair bill, which included a proposed cut in brownfields grants of \$5 million, though all the numbers were not in at that time

The Study Group discussed at length different options and actions to take, including offering their own recommendations to the governor, state agencies and the Legislature.

***Group also agreed on the following alternative (Stieglitz' modified proposal)**

Commerce – cut \$3.725 million

Green Space – cut \$1 million

SAG – cut \$150,000

SUDZ – cut \$125,000

Group also agreed to:

***add language in their recommendations about utilizing PECFA funds; and to**

***add language about requesting a temporary change, for now, to the Commerce requirement about geographical awards for their brownfields grants.**

IV. State Agency Updates – Tabled by Study Group

V. SUDZ/State Revolving Loan Fund – Tabled by Study Group

VI. Use of Community Development Block (CDBG) Grants

CDBG and BEBR – Joe Leo from Dept. of Commerce briefly talked about the Community Development Block Grant (CDBG) Program

Leo: Federal regulations are guides, but an applicant does not need to meet them; however, you must meet

one of three objectives: low/moderate income benefit; urgent need; and slum and blight

Leo: States can set up programs with more flexibility than entitlement cities; an annual consolidated plan is required; non-housing funds go to Commerce; housing funds go to DOA

Leo: State was given \$33 million in CDBG funds for housing and non-housing grants; \$24M goes to Commerce annually; as of March 31, 2002, \$470,000 was spent on brownfields

Leo: Other items to note – taxable property requirement is a state requirement and not a federal requirement; public facilities program is there to do public projects for low-moderate communities; when CDBG is paid back, money is kept in the department as program revenue; maximum you can spend in two years is \$5 million

Mueller: Davis Bacon is not an issue on investigation money, right?

Leo: Not sure

Leo: BEBR is underutilized recently; at first used a lot, but declined; this year, we have awarded one project, and have committed to four other BEBR projects

Kathleen Schmidt – HUD has a labor specialist on Davis Bacon

BEDI grants, EDI grants and Section 108 loans – Kathleen Schmidt from U.S. Dept. of Housing and Urban Development provided information to Study Group members on federal grants and loans

Schmidt: Some CDBG funds go to paying interest on loans, but not always; there's a 20 year maximum for repayment – the percentage rate is tied to the prime rate

Craig: Can you prepay?

Schmidt: Unsure of what the current status is on this issue

Schmidt: BEDI grant is tied to the Section 108 loan, but Congress is considering de-coupling these two

Stieglitz: What is status of this?

Schmidt: I don't think it has passed Congress

Schmidt: There were \$26 million in BEDI's across the country last year; \$25 million in FY03 is proposed; they cannot be used to help an entity clean up problems they caused; and BEDI's do not come out of annual entitlement payment to the community

For more information can call Community Connections and get publications, 1-800-998-9999

Midwest Summit on Sustainable Development of Brownfields – June 25, 26, 27

Chicago Brownfields Nuts and Bolts Course – June

Lunch

VII. Development Zone Tax Credits – Tabled By Study Group

VIII. Brownfields and Insurance

Ken Anderson from Arthur J. Gallagher Risk Management Services, Inc., talked to the Study Group about expanding the state's insurance programs for voluntary cleanups and brownfields

Prager: The Study Group has talked about expanding insurance for our VPLE programs during past meetings

Harrington: Several places where we think we can explore this; one example is interim insurance during the remedial activities; not just an individual policy but a programmatic policy

Ken Anderson: Art summarized two main areas; there is a third, the threat of third-party liability, which the Certificate of Completions (COCs) can't even address; could you end the coverage once you have closure, sure; but you may have insurance issues that aren't even directed at the state

Anderson: These are issues that the industry deals with every day; it's all I've worked with for nine years; the company would basically underwrite the state's procedure; that's fairly easily done; the one that's not fairly easily done is cost-cap insurance; in Massachusetts, AIG underwrites the program, and they get 25-30 sites per quarter to spread the risk; in Wisconsin, we'd want it available but not subsidized

Harrington: On an underwriting basis, isn't the carrier going to want to know the ability to pay of the applicant?

Anderson: On a standard policy, yes; on a program policy it's self-insured retention; in Massachusetts, the policies are for 5 years, but are voluntary; the state went to AIG because they're the current insurer on the state's program

Harrington: If something like this could be looked at, from a private practitioner's standpoint, I think this would help utilize the VPLE program more

Mueller: If that type of program, where the costs are \$8,000 or maybe even a little more, and you get away from millions, you'll see the volume increase

Anderson: We do a lot of \$5,000 and \$10,000 policies in our industry

Mueller: Don't see a lot of sites like that in Wisconsin

Scott Wilson: You will see clients that won't touch a site unless the remediation cost is \$1 million or more on a lot of sites

Harrington: Whatever the standard policy would be, it would have to be heavily negotiated; some of the concerns include what would trigger the coverage, and something that is required by law versus being owner-based

Anderson: Good point, insurers don't want this to be a redevelopment policy; for example, they'd use it as a tool to redevelop for housing so you can risk the development against lower environmental standards

Foss: Some things to think about, when we did the VPLE insurance, they visited with our closure committees and looked at closures; some insurers said no way based on that; one of the ways we've been forgiving in the VPLE is we let you go ahead with a site-RAP approval with the understanding that if you find something you're going to have to deal with it; if you have this insurance you're going to have to trade this off, we're going to get tougher with them

Harrington: Why?

Foss: Because they're underwriting based on the DNR getting it right

Anderson: Yes, so they'll either underwrite it tighter or price it out to deal with that risk

Harrington: Risk is most cost effective if the risk is pooled

Prager: I think the goal today is to see if the Study Group is in the ball park with your ideas, to see if they have some savings and provide an advantage to some folks, as well as to get the discussion going; for the next Study Group meeting, we hope to have someone from the underwriter come and talk to the Study Group

Anderson: I think you can do it and it would be neutral to you, because you're not using state money

Harrington: This is a private solution to a problem we tried to do statutorily

Foss: We need to get more people involved in the VPLE program and VPLE insurance

Tom: it's the same thing, refinancing and redeveloping, that's where you get the private person protecting their assets; having that certificate is what you need

Anderson: AIG is verbally committed to the renewal date in March, but they have expressed some concern due to only having three certificates so far

Darsi: if we can revisit this issue at the next study group meeting

Mueller: Of your 100 and some odd sites in the VPLE program, how many are not even at the point to do this and have a letter of agreement with the DNR and have opted NOT to get the insurance?

Michael Prager will get the information requested from Tom Mueller and Study Group members, as well as work with Ken and AIG to present at the next meeting

IX. Blight Elimination & Brownfield Redevelopment (BEBR) Program

Joe Leo talked about BEBR, in administrative rules you have stated limits; you can do up to \$5 million a year; if you have public facilities or economic development, they take precedent over brownfields projects; however, we've had a lot of projects in the last months

Leo: As for eligible use, the program can be used for lots of things; including blight removal, and a site doesn't have to have environmental contamination so long as there's a strong blight element to the project; can be used for demolition, can also do environmental assessments, limited asbestos abatement

Prager: I understand these grants help them get ready for a Commerce brownfields grant; is it possible they could get another BEBR to do the cleanup if they didn't get a Commerce grant due to budget cuts?

Leo: You can ask for an amendment to get more money for remediation after you do the investigation

Mueller: Those \$100,000 and \$500,000 limits for all that, are those administrative numbers?

Leo: Those are in the rules

Mueller: So that's something we could recommend to change via the rules

Leo: Yes, but there's a limit of \$700,000 total; we've been reluctant to raise any of those caps; we're committing somewhat under those caps

Stieglitz: Just some clarification; these fund can be used just for demo and not cleanup, if there's blight? What do you need in an application?

Leo: We'd look at project by project, our rules reference a blighted area

Stieglitz: My recollection is that part of one of your requirements there needs to be a formal plan redevelopment

Leo: That's the case, more of a policy issue; we've been getting more speculative with the money, especially on environmental assessments, the rules only say it has to be zoned taxable reuse for the last five years

Mueller: What about plant decommissioning?

Leo: It's eligible, though its not looked favorably upon; but we're always willing to look into new projects

Mueller: The limitations on BEBR are size for a municipality?

Leo: On investment; there's no real size limit; it's easier to do bigger projects more than \$400,000

Scott: It's an open application process and a quick turn around

Leo: We can get them answers to questions fairly quickly

Leo passed out information, including his phone number if people have any questions, 608-267-0751

Adjourn